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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,645	01/28/2002	Anthony Walter Anson	105005-0055C1	5057

7590 11/06/2003

INTELLECTUAL PROPERTY DEPT.
DEWITT ROSS AND STEVENS
8000 EXCELSIOR DRIVE, 4TH FLOOR
MADISON, WI 53717-1914

EXAMINER

THALER, MICHAEL H

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 11/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/058,645

Applicant(s)

ANSON ET AL.

Examiner

Michael Thaler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39 and 47-49 is/are allowed.
- 6) ☒ Claim(s) 24-29, 31-38 and 40-46 is/are rejected.
- 7) ☒ Claim(s) 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Upon reconsideration, the election of species requirement is withdrawn.

Claims 45 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of claim 45 ("A stent") is inconsistent with the preamble of claim 35 ("A delivery system for placement of a stent"), from which it depends. Claim 46 has a similar problem.

Claims 24-29, 31 and 32 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mazzocchi et al. (2002/0138095). Mazzocchi et al., in figures 5A and 5B, show a wire which is expandable to form an occluding anchor part 64 having turns of cycloidal form (figure 5B) which are substantially coplanar. Alternatively, the turns are obviously substantially coplanar since any deviation from a plane is small as compared to the overall shape of the device. As to claim 27, Mazzocchi et al. show another anchor part 64 and linking part 62. As to claim 32, note paragraph [0078] of Mazzocchi et al.

Claims 33-35, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mazzocchi et al. (2002/0138095). As to

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claim 33, Mazzocchi et al. fail to disclose the specific coating of a protein. However, it was well known in this art that proteins are used as pharmacological agents. Using a protein as pharmacological agent of Mazzocchi et al. would have been obvious for this reason. As to claim 34, Mazzocchi et al. fail to disclose a roughened surface on the wire. However, it was well known in this art that implanted articles in the body may have roughened surfaces in order to better retain pharmacological agents on them. Using a roughened surface on the wire of Mazzocchi et al. would have been obvious so that it too would have this advantage. As to claim 35, Mazzocchi et al., in the embodiment of figures 5A and 5B, fail to show a catheter, a placement member and a releasable connection means. However, Mazzocchi et al., in the embodiment of figures 6A-6C and 8 and described in paragraphs [0084] and [0085], teach that the implantable member may be conveniently delivered into the body by a catheter, a placement member (the elongate metal, flexible shaft) and a releasable connection means (at 90). It would have been obvious to use these members to deliver the implantable member of figures 5A and 5B so that it too would have this advantage. As to claims 44 and 45, Mazzocchi et al. fail to disclose the stent formed from a single length of wire. However, it was well known in this art that implantable members may be

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formed from a single length of wire so that they are easily manufactured. It would have been obvious to so form the Mazzocchi et al. stent so that it too would have this advantage.

Claims 36-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamiya et al. (5,192,301). Kamiya et al., in figure 29, show a releasable connector (the right portion of plug 21'' including the thin neck at the end of the lead line for reference numeral 21'') for releasably interconnecting first part 23 to second part (the bulbous portion of plug 21'' left of the thin neck) comprising first connector region (the flange portion which is wrapped around ball shaped member 28) which has a shape memory effect (col. 8, lines 52-55) and second connector region (the thin neck).. As to claim 37, Webster's II New Riverside Dictionary defines "bush" as "To furnish or line with a bushing." and defines "bushing" as "A fixed or removable lining used to constrain, guide or reduce friction." The Kamiya et al. flange portion which is wrapped around ball shaped member 28 is used to constrain and thus meets this broad definition to the same extent that member 30 of the application meets it.

Claims 40-43 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mazzocchi et al. (2002/0138095) in view of Kamiya et al. (5,192,301). Mazzocchi et al. fail to disclose the

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connector formed of temperature triggered shape memory material. However, Kamiya et al. teaches that a connector between the push rod and an implantable occlusion device should be formed of this material so that it can be easily disconnected when it reaches a certain temperature (col. 8, lines 45-55). It would have been obvious to so form the Mazzocchi et al. connector so that it too has this advantage.

Claim 30 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 39 and 47-49 are allowed.

Applicant's arguments with respect to claims 24-29, 31-35, 40-43 and 46 have been considered but are moot in view of the new ground(s) of rejection. As to claim 36, Kamiya discloses a second connector region (the thin neck) which is secured to the second part (the bulbous portion of plug 21'' left of the thin neck) by a unitary connection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (703) 308-2981. The examiner can normally be reached Monday to Friday.